

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR 4947  
Kemp for Vice President and Kirk L. )  
Clinkenbeard, as treasurer )

**CONCILIATION AGREEMENT**

This matter was initiated by the Federal Election Commission ( the "Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Kemp for Vice President and Kirk L. Clinkenbeard, as treasurer ("Respondents") violated 2 U.S.C. § 441a and 11 C.F.R. § 110.1(b)(3)(i).

NOW, THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Kemp for Vice President is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Kirk L. Clinkenbeard is the treasurer of Kemp for Vice President.

3. The Federal Election Campaign Act of 1971, as amended (the "Act"), provides that no person may make contributions to a candidate and his or her committee with

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respect to any election for Federal office which, in the aggregate, exceed \$1,000 per Federal election. 2 U.S.C. § 441a(a)(1)(A). In addition, the Act provides that no person shall make contributions to the political committees established and maintained by a national party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed \$20,000. 2 U.S.C. § 441a(a)(1)(B). Furthermore, no candidate or political committee may knowingly accept any contribution or make any expenditure which violates the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

4. A contribution designated in writing for a particular election, but made after that election, shall be made only to the extent that the contribution does not exceed net debts outstanding from such election. 11 C.F.R. § 110.1(b)(3)(i). To the extent that such contribution exceeds net debt outstanding, the candidate or the candidate's authorized political committee shall return or deposit the contribution within ten days from the date of the treasurer's receipt of the contribution as provided by 11 C.F.R. § 103.3(a), and if deposited, then within sixty days from the date of the treasurer's receipt, the treasurer shall refund the contribution, or obtain a written redesignation. 11 C.F.R. § 110.1(b)(3)(i). If the candidate is not a candidate in the general election, all contributions made to the general election shall be either returned or refunded to the contributors or redesignated in accordance with 11 C.F.R. § 110.1(b)(5).

5. Mr. Kemp received the Republican Party nomination for the office of vice-president at the Republican National Convention on August 14, 1996. The Committee's disclosure reports filed after the convention reflect surplus funds and the Committee's continued acceptance of contributions after the convention. A review of the Committee's contribution records revealed contributions received after the election and in excess of net debt totaling over \$100,000.

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V. 1. Respondents violated 2 U.S.C. § 441a in the amount of at least \$80,000.

2. Respondents violated 11 C.F.R. § 110.1(b)(3)(i) in the amount of \$100,000.

VI. 1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of 15,000 dollars (\$15,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents will seek a refund from the National Republican Senatorial Committee in the amount of 100,000 dollars (\$100,000).

3. Respondents will provide the Federal Election Commission a copy of the letter it sends to the National Republican Senatorial Committee seeking the \$100,000 refund.

4. Respondents will refund the contributors where possible and disgorge the remainder to the United States Treasury with any amount refunded by the National Republican Senatorial Committee.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.


IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral,

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made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

  
\_\_\_\_\_  
Lois G. Lerner  
Acting General Counsel

6/25/01  
Date

FOR THE RESPONDENTS:

  
\_\_\_\_\_  
Kirk L. Clinkenbeard

6-14-01  
Date

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